

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

DAVID DERRINGER,

Plaintiff,

vs.

Civ. No. 02-1075 MV/WDS

NEW MEXICO SUPREME COURT,
THOMAS C. TURNEY, JUDGE EDMUND
KASE III, WAYNE G. CANON, and
MICKEY and JENNIFER CHAPEL, husband
and WIFE,

Defendants.

CONSOLIDATED WITH

DAVID DERRINGER,

Plaintiff,

vs.

Civ. No. 03-0090 JP/DJS

JOHN D'ANTONIO, New Mexico State
Engineer, JOSEPH MANGES, MICKEY
CHAPEL, and JENNIFER CHAPEL,

Defendants.

MEMORANDUM OPINION AND ORDER

On December 7, 2004, the Court entered a Memorandum Opinion and Order explaining that due to Plaintiff David Derringer's filing of bankruptcy, the automatic stay provision provided

in 11 U.S.C. § 362 prohibited the Court from ruling on Defendants John D'Antonio, New Mexico Supreme Court, Thomas Turney, Judge Edmund Case and Wayne Canon's ("Governmental Defendants") pending motion for attorney's fees until Plaintiff's bankruptcy case was closed, dismissed, or discharge was granted or denied, or until the bankruptcy court granted some relief from the stay. 11 U.S.C. § 362(a), (c)(2), (d), (e), (f). *See* December 7, 2004 Order [Doc. No. 83]. The Court further explained that for administrative reasons, the Court would prefer not to have the motion remain on its docket pending resolution of Plaintiff's bankruptcy and stated that unless one of the parties objected, the Court would deny the Governmental Defendants' pending motion for attorney's fees without prejudice and grant Governmental Defendants leave to renew their motion within thirty days of the lifting of the automatic stay in this matter.

Plaintiff objected to the Court's proposed course of action and requested that the December 7, 2004 Order be rescinded and withdrawn. *See* Plaintiff's Response in Opposition to the Memorandum Opinion and Order of December 7, 2004, filed December 15, 2004, [Doc. No. 84]. Due to Plaintiff's objection, the Court will not deny the Governmental Defendants' motion for award of attorneys' fees without prejudice as proposed. The Court will not, however, withdraw or rescind its December 7, 2004 Order as requested by Plaintiff.

IT IS THEREFORE ORDERED that to the extent Plaintiff's Response in Opposition to the Memorandum Opinion and Order of December 7, 2004, filed December 15, 2004,

[Doc. No. 84], seeks to have the Court rescind the Court's December 7, 2004 Order, it is
DENIED.

Dated this 19th day of August, 2005.



MARTHA YAZQUEZ
U. S. DISTRICT COURT JUDGE

Attorney for Plaintiff:

David Derringer, *pro se*

Attorneys for Governmental Defendants:

Sean Olivas, Esq.